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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/597,656 | 08/02/2006 | Dickory Rudduck | PA046/CL 15451 | 4468 |
| 57346 7590 11/23/2010 TELEZYGOLOGY, INC. 520 W. ERIE STREET, SUITE 100 CHICAGO, IL 60654 | | | | |
| EXAMINER | | | | |
| SANDY, ROBERT JOHN | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/597,656

Applicant(s)

RUDDUCK ET AL.

Examiner

Robert J. Sandy

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2010.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
4a) Of the above claim(s) 11-15 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-10 and 16-25 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-8508)
4) ☐ Interview Summary (PTO-413)
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____
Paper No(s)/Mail Date _____

DETAILED ACTION

This is a **final** Office action responsive to the reply filed on 30 April 2010.

- Claims 1, 5, 6, 8, 14, and 16-25 have been amended.
- Claims 11-15 have been withdrawn.
- Claims 26-34 have been canceled.
- Claims 1-25 are pending.
- A Substitute Specification filed on 04/30/2010 has been approved for entry.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10 and 16-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Yoshida et al. (U. S. Patent No. 4,222,304).

Concerning claims 1-10, Yoshida et al. ('304) discloses a fastener (as shown in at least Figs. 1-5) including:

a longitudinal body (3);

a first work engaging member (2) mounted on the longitudinal body and adapted for movement relative thereto towards a work to be engaged;

a second work engaging member (tubular wall portion below flange 2 having portions 7' and perforations 7) associated with the longitudinal body; and

means (8, 9) for adjusting position of the first work engaging member on the longitudinal body, the second work engaging member including means (wall portions 7') for assuming a first position of narrow cross-sectional area (as shown in either Figs. 1 or 4(A)) and a second position of wide cross-sectional area (as shown in Fig. 4(B));

(concerning claim 2) the first work engaging member (2) is a pressure foot mounted on the longitudinal body and adapted to be urged towards work surfaces which are to be trapped between the first work engaging member and the second work engaging member;

(concerning claim 3) the second work engaging member (the tubular wall portion below the flange 2) is mounted on or attached to the longitudinal body (3);

(concerning claim 4) the second work engaging member (the tubular wall portion below the flange 2) is integral with and joined to the first work engaging member (2);

(concerning claim 5) the means capable of assuming the first and second positions includes wings or leaves (7');;

(concerning claim 6) the position adjusting means includes ratchet teeth (8) and a pawl (9);

(concerning claim 7) the ratchet teeth (8) are on the longitudinal body (3);

(concerning claim 8) the pawl (9) is formed integrally (as shown in Fig. 4(A)) with the first work engaging means (2);

(concerning claim 9) the first work engaging member, the second work engaging member and the pawl element are made in one piece or are in a fixed spatial relationship;

(concerning claim 10) the second work engaging member (the tubular wall portion below the flange 2) is connected to or integral with the longitudinal body (2); and

(concerning claim 25) one end (end at 5) of the longitudinal body is adapted to engage an insertion tool and the other end (6) is a probe.

Concerning claims 16-24, Yoshida et al. ('304) discloses a fastener (as shown in at least Figs. 1-5) including:

a first longitudinal body (3) having first means (8) for engaging; and a second longitudinal body (tubular wall portion below flange 2 having portions 7' and perforations 7) having: an opening adapted to receive the first longitudinal body (3); and second means (stepped portion 9 and including internally threaded/grooved/projections along the wall portions 7, as shown in Figs. 1 and 4(A)) for engaging in at least part of the opening; wherein the first and/or second means for engaging is adapted to deform sufficiently (see at least the written description from col. 4, line 54 to col. 5, line 9) to permit the first longitudinal body to slide axially through

the opening in the second longitudinal body and wherein the second means for engaging is adapted to engage the first means for engaging on the first longitudinal body;

(concerning claim 17) means (7') for assuming a first position of narrow cross-sectional area and a second position of wide cross-sectional area;

(concerning claim 18) the means for assuming the first and second position is part of or attached to the second longitudinal body;

(concerning claim 19) the first and second means for engaging permit unidirectional movement (see description in col. 5, lines 20-31) of the first longitudinal body within the second longitudinal body;

(concerning claim 20) the first longitudinal body includes the first means (8) for engaging some or all of its length;

(concerning claim 21) the first means for engaging is serrations (8) or grooves, each having a shoulder adapted to engage a barb or shoulder (9) in the second engaging means;

(concerning claim 22) the second longitudinal body is substantially cylindrical and the means for assuming the first position of narrow cross-sectional area and the second position of wide cross-sectional area comprises a continuation of the cylinder, the cylinder being partially segmented (via the elongated perforations 7');

(concerning claim 23) the means for assuming the first position are deformable and hinged to the cylinder (as demonstrated in Figs. 4(A) through 5); and

(concerning claim 24) the second means for engaging takes the form of threads or annular grooves and projections (that includes the internally threaded/grooved/projections along the wall portions 7, as shown in Figs. 1 and 4(A)), adapted to deform and increase in cross-sectional area through longitudinal slits (7') cut into the threads or grooves and projections.

Response to Arguments

Applicant's arguments with respect to claims 1-10 and 16-25 have been considered but are moot in view of the new ground(s) of rejection which were necessitated by applicant's amendment to the claims.

In view of Applicant's amendments to the Specification, the objection to the disclosure indicated in the prior Office action each have been withdrawn.

In view of Applicant's amendments to the claims 1, 5, 6 and 16-24, in clarifying the means-plus-function limitations to invoke 35 U.S.C. 112, 6th paragraph, thereby changing the scope of the claims, the rejection under 35 U.S.C. 112, 2nd paragraph, indicated in the prior Office action each have been withdrawn.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Sandy whose telephone number is 571-272-7073. The examiner can normally be reached on M-F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vic Batson can be reached on 571-272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert J. Sandy/
Primary Examiner, Art Unit 3677